

JEFFERSON COUNTY SMOKE FREE AIR ACT
(Ordinance No. 2003-06)

1. INTRODUCTION.

(a) This ordinance shall be known as the “**Jefferson County Smoke Free Air Act.**”
[am. 09-11-07, Ord. 2007-10]

(b) The smoking of tobacco products and other substances indoors causes recognized adverse health effects on not only the individuals smoking but also on others. Smoking indoors or near public entrances adversely affects among other things, health, safety, comfort, employee production and building maintenance expenses. [am. 09-11-07, Ord. 2007-10]

(c) While it is difficult to quantify exactly, smoking indoors also drives up publicly funded expenses in terms of increased health insurance premiums, increased sick leave use, increased building maintenance and decreased employee productivity. In addition, there is a public interest of taxpayers in an investment in county employees by paying their health insurance, and a need to maintain employee health to keep county costs from rising.

2. PURPOSE, AUTHORITY AND INTENT.

(a) Reports from the Surgeon General, the Environmental Protection Agency and others show that smoking contributes to health problems of county employees and members of the public both directly through deliberate use of smoking materials and indirectly through exposure to second hand smoke. This ordinance is enacted to protect the health and comfort of the public and county employees through the regulation of smoking, according to the authority granted this County by Sec. 101.123 (2)(c), Stats. (The Wisconsin Clean Indoor Act) and Chapter 59, Statutes. [am. 09-11-07, Ord. 2007-10]

3. DEFINITION.

(a) “Smoking” means burning or holding, or inhaling or exhaling smoke from, any of the following items containing tobacco:

1. A lighted cigar.
 2. A lighted cigarette.
 3. A lighted pipe,
 4. Any other lighted smoking equipment.
- [am. 06-08-10, Ord. 2010-10]

4. REGULATION OF SMOKING.

(a) No person may smoke indoors at any time in any county-owned, rented or leased building, including the Fair Park grandstand. [am. 09-11-07, Ord. 2007-10]

(b) No person may smoke within thirty (30) feet of a public entrance to any county-owned, rented or leased building. At the Fair Park, this subsection shall only apply to the front door of the Activity Center. [cr. 09-11-07, Ord. 2007-10]

(c) No person may smoke at any time inside of any county-owned, rented or leased vehicle. [renumbered 09-11-07, Ord. 2007-10]

(d) No person may smoke on county property outside a designated smoking area if such property has notice posted of this regulation and designated smoking areas. Designated smoking areas for the Courthouse shall be adjacent to emergency exits at entrances 2 and 4. [cr. 09-11-07, Ord. 2007-10]

(1) The County Administrator or department head in charge of specific county property may designate smoking areas on such property. [cr. 09-11-07, Ord. 2007-10]

(2) Smoking shall not be allowed in park shelters or bathrooms, maintenance buildings or the Dog Park. [cr. 09-11-07, Ord. 2007-10]

(e) Department heads in all county-owned, rented, or leased buildings shall enforce a "No Smoking" policy consistent with Sec. 101.123, Stats. and this ordinance. (The Wisconsin Clean Indoor Air Act). [renumbered 09-11-07, Ord. 2007-10]

(f) In the event of conflict between the provisions of this ordinance and Section 101.123, Stats., the more restrictive regulation shall apply. [renumbered 09-11-07, Ord. 2007-10]

5. EXEMPTION FROM SMOKING PROHIBITION.

(a) The following activities, facilities and vehicles are exempt from the prohibition of this ordinance:

(1) With the consent of the Sheriff, and under supervision of a county detective, individuals under interrogation are permitted to smoke in designated interrogation rooms within the Sheriff's Department.

(2) Vehicles owned, rented or leased for use by the Jefferson County Sheriff's Department. [renumbered 09-11-07, Ord. 2007-10; renumbered 06-08-10, Ord. 2010-10]

(3) In the presence of a bailiff, jurors may smoke in the area immediately adjacent to courthouse entrance 13. [created 01-08-08, Ord. 2007-32; renumbered 06-08-10, Ord. 2010-10]

6. INCORPORATED STATUTORY PROVISIONS.

This ordinance shall incorporate the provisions of section 101.123, Wisconsin Statutes, as amended by 2009 Act 12, effective July 5, 2010. Any act required or prohibited by said statutory section shall be required or prohibited by this ordinance. [created 06-08-10, Ord. 2010-10]

7. PENALTY. [renumbered 06-08-10, Ord. 2010-10]

(a) Any person found guilty of violating this ordinance or any part of this ordinance, shall be subject to a forfeiture of not less than \$100 nor more than \$250, together with the costs of prosecution, and in willful default of payment of such forfeiture and costs of prosecution, may be imprisoned in the County Jail as ordered by the Court, except as set forth below: [am. 06-08-10, Ord. 2010-10]

1. Any person who willfully violates incorporated 101.123(2)(ar), Wis. Stats., after being advised by an employee of the facility that smoking in the area is prohibited shall forfeit not more than \$50. [created 06-08-10, Ord. 2010-10]

2. Except as provided in incorporated paragraphs 101.123(dm) or (em), any person in charge who violates incorporated 101.123(2m)(b) to (d) shall be subject to a forfeiture of \$100 for each violation. [am. 06-08-10, Ord. 2010-10]

(dm) For violations subject to the forfeiture under par. 7(a)(2), if the person in charge has not previously received a warning notice for a violation of incorporated 101.123(2m)(b) to (d), the law enforcement officer shall issue the person in charge a warning notice and may not issue a citation. [cr. 06-08-10, Ord. 2010-10]

(em) No person in charge may be required under par. 7(a)(2) to forfeit more than \$100 in total for all violations of incorporated 101.123(2m)(b) to (d) occurring on a single day. [cr. 06-08-10, Ord. 2010-10]

(b) Any person, firm, or corporation violating any of the subsections of this ordinance may stipulate to guilt or no contest and may pay to the Clerk of Court a bond according to a schedule established by ordinance. Such stipulation will make it unnecessary for the subject charged to appear in court, and will act as a basis for the court to enter judgment and order forfeiture of the bond.

(c) Schedule of Deposits. Deposits shall be made in cash, money orders, or certified check to the Clerk of Jefferson County Circuit Court who shall provide a receipt therefore. The amount of the bond is hereby affixed at \$100 plus applicable statutory surcharges and assessments except for violations of incorporated 101.123(2)(ar), where the bond shall be \$50 plus applicable statutory surcharges and assessments. [am. 06-08-10, Ord. 2010-10]

(d) Adoption of this ordinance does not preclude the County Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter. Issuance of a citation hereunder shall not preclude the County or any authorized officer from proceeding under any other ordinance or law by any other enforcement method to enforce any ordinance, regulation or order.

8. NOTIFICATION TO PUBLIC. [renumbered 06-08-10, Ord. 2010-10]

(a) The person in charge of each county building or his or her designee shall cause to be posted at the entryway of each county building, signs notifying the public of the fact that the building is a smoke-free building. Absence of such sign, however, shall not be a defense to the violation of this ordinance. [am. 09-11-07, Ord. 2007-10]

(b) The person in charge of each county building or his or her designee shall cause to be posted signs notifying the public of the prohibition against smoking within thirty (30) feet of a public entrance. [cr. 09-11-07, Ord. 2007-10]

(c) The person in charge of each county building or his or her designee shall cause to be posted on the property around such building notices limiting smoking to designated areas, if the department head or County Administrator has established designated smoking areas applicable to the grounds of that specific building. [cr. 09-11-07, Ord. 2007-10]

8. ENFORCEMENT. [renumbered 06-08-10, Ord. 2010-10]

(a) All Jefferson County law enforcement officials of the Jefferson County Sheriff's Dept. are hereby authorized in the name of the County of Jefferson to issue citations for prosecution for violations occurring under this chapter. In addition, such officials may delegate this authority to department heads and/or persons in charge of any county building.

(b) Prosecutions under this chapter shall be made by the issuance of citations and the procedure to be followed shall be governed by Wisconsin Statutes Section 66.0113. The District Attorney shall, upon receipt of a complaint from the Sheriff's Department or other authorized individuals as allowed, institute appropriate legal proceedings against the alleged offender.

9. EMPLOYEE DISCIPLINE. [renumbered 06-08-10, Ord. 2010-10]

(a) In addition to or in lieu of enforcement of this ordinance by forfeiture, violations of this section by county employees and officers may be punished by appropriate discipline as a violation of a reasonable work rule as determined by the supervisor of the employee and/or the County Administrator.

Section 2. Effective Date: This ordinance shall take effect upon passage and publication as required by law.

Adopted 09/09/03; publication 09/17/03

Amended 01/08/08; publication 01/11/08 (Ord. 2007-32)

Amended 06/08/10; publication 06/11/10; effective 7/5/10 (Ord. 2010-10)